

SENATE BILL No. 101

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2-24.5; IC 35-43.

Synopsis: Agricultural operations and criminal trespass. Expands the criminal trespass statute by making it a crime to knowingly or intentionally enter the real property of another person without the person's consent. Allows an agricultural operation to conspicuously post a notice at the agricultural operation's locations that lists prohibited acts that may compromise the agricultural operation's trade secrets or operations. Provides that a person who knowingly or intentionally commits an act at an agricultural operation that is prohibited and listed on such a notice commits a Level 6 felony. Expands criminal trespass to include certain acts involving agricultural operations. Raises the penalty for criminal trespass if certain levels of pecuniary loss result from the criminal trespass.

Effective: July 1, 2014.

Holdman

January 6, 2014, read first time and referred to Committee on Corrections & Criminal Law.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 101

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-2-24.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: **Sec. 24.5. "Authorized person", for**
4 **purposes of IC 35-43-2-2, has the meaning set forth in**
5 **IC 35-43-2-2(a).**

6 SECTION 2. IC 35-43-1-9 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2014]: **Sec. 9. (a) An agricultural operation (as defined in**
9 **IC 32-30-6-1) may conspicuously post a notice at the agricultural**
10 **operation's locations that lists prohibited acts that may**
11 **compromise the agricultural operation's trade secrets or**
12 **operations. The notice must be posted in a manner that is likely to**
13 **come to the attention of the public.**

14 **(b) A person who knowingly or intentionally commits an act at**
15 **an agricultural operation that is a prohibited act listed on a notice**
16 **described in subsection (a) commits a Level 6 felony.**



SECTION 3. IC 35-43-2-2, AS AMENDED BY P.L.203-2013,
SECTION 25, AND AS AMENDED BY P.L.158-2013, SECTION
462, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2014]: Sec. 2. **(a) As used in this section,**
"authorized person" means a person authorized by an agricultural
operation to act on behalf of the agricultural operation.

~~(a)~~ **(b)** A person who:

(1) not having a contractual interest in the property, knowingly or
intentionally enters the real property of another person after
having been denied entry by the other person or that person's
agent;

(2) not having a contractual interest in the property, knowingly or
intentionally refuses to leave the real property of another person
after having been asked to leave by the other person or that
person's agent;

(3) accompanies another person in a vehicle, with knowledge that
the other person knowingly or intentionally is exerting
unauthorized control over the vehicle;

(4) knowingly or intentionally interferes with the possession or
use of the property of another person without the person's consent;

(5) not having a contractual interest in the property, knowingly or
intentionally enters the **real property or** dwelling of another
person without the person's consent;

(6) knowingly or intentionally:

(A) travels by train without lawful authority or the railroad
carrier's consent; and

(B) rides on the outside of a train or inside a passenger car,
locomotive, or freight car, including a boxcar, flatbed, or
container without lawful authority or the railroad carrier's
consent;

(7) not having a contractual interest in the property, knowingly or
intentionally enters or refuses to leave the property of another
person after having been prohibited from entering or asked to
leave the property by a law enforcement officer when the property
is ~~(A)~~ vacant or designated by a municipality or county
enforcement authority to be abandoned property *and (B) subject*
to abatement under IC 32-30-6, IC 32-30-7, IC 32-30-8,
IC 36-7-9, or IC 36-7-36 or an abandoned structure (as defined
in IC 36-7-36-1); or

(8) not having a contractual interest in the property,
knowingly or intentionally enters the real property of an
agricultural operation (as defined in IC 32-30-6-1) without the



1 permission of the owner of the agricultural operation or an
 2 authorized person, and knowingly or intentionally engages in
 3 conduct that causes a pecuniary loss to:

4 (A) the owner of or a person having a contractual interest
 5 in the agricultural operation;

6 (B) the operator of the agricultural operation; or

7 (C) a person having personal property located on the
 8 property of the agricultural operation;

9 (9) not having a contractual interest in the property,
 10 knowingly or intentionally enters the real property of an
 11 agricultural operation (as defined in IC 32-30-6-1) without the
 12 permission of the owner of the agricultural operation or an
 13 authorized person, and after having been asked to leave,
 14 refuses to leave the real property of the agricultural
 15 operation; or

16 ~~(8)~~ (10) knowingly or intentionally enters the property of another
 17 person after being denied entry by a court order that has been
 18 issued to the person or issued to the general public by
 19 conspicuous posting on or around the premises in areas where a
 20 person can observe the order when the property ~~(A)~~ has been
 21 designated by a municipality or county enforcement authority to
 22 be a vacant property, ~~or~~ an abandoned property, ~~and (B) is subject~~
 23 ~~to an abatement order under IC 32-30-6, IC 32-30-7, IC 32-30-8,~~
 24 ~~IC 36-7-9, or IC 36-7-36 or an abandoned structure (as defined~~
 25 ~~in IC 36-7-36-1);~~

26 commits criminal trespass, a Class A misdemeanor. However, the
 27 offense is a ~~Class D~~ Level 6 felony if it is committed on a scientific
 28 research facility, on a key facility, on a facility belonging to a public
 29 utility (as defined in IC 32-24-1-5.9(a)), on school property, or on a
 30 school bus or the person has a prior unrelated conviction for an offense
 31 under this section concerning the same property. **The offense is a**
 32 **Level 6 felony, for purposes of subdivisions (8) through (9), if the**
 33 **pecuniary loss is more than seven hundred fifty dollars (\$750) and**
 34 **less than fifty thousand dollars (\$50,000). The offense is a Level 5**
 35 **felony, for purposes of subdivisions (8) through (9), if the**
 36 **pecuniary loss is at least fifty thousand dollars (\$50,000).**

37 ~~(b)~~ (c) A person has been denied entry under ~~subdivision~~ subsection
 38 ~~(a)(1) of this section~~ (b)(1) when the person has been denied entry by
 39 means of:

40 (1) personal communication, oral or written;

41 (2) posting or exhibiting a notice at the main entrance in a manner
 42 that is either prescribed by law or likely to come to the attention



of the public; or

(3) a hearing authority or court order under IC 32-30-6, IC 32-30-7, IC 32-30-8, IC 36-7-9, or IC 36-7-36.

~~(c)~~ (d) A law enforcement officer may not deny entry to property or ask a person to leave a property under subsection ~~(a)(7)~~ (b)(7) unless there is reasonable suspicion that criminal activity has occurred or is occurring.

~~(d)~~ (e) A person described in subsection ~~(a)(7)~~ (b)(7) violates subsection ~~(a)(7)~~ (b)(7) unless the person has the written permission of the owner, owner's agent, enforcement authority, or court to come onto the property for purposes of performing maintenance, repair, or demolition.

~~(e)~~ (f) A person described in subsection ~~(a)(8)~~ (b)(10) violates subsection ~~(a)(8)~~ (b)(10) unless the court that issued the order denying the person entry grants permission for the person to come onto the property.

~~(f)~~ (g) Subsections ~~(a)~~, (b), (c), and ~~(e)~~ (f) do not apply to the following:

(1) A passenger on a train.

(2) An employee of a railroad carrier while engaged in the performance of official duties.

(3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.

(4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.

(5) A person on the station grounds or in the depot of a railroad carrier:

(A) as a passenger; or

(B) for the purpose of transacting lawful business.

(6) A:

(A) person; or

(B) person's:

(i) family member;

(ii) invitee;

(iii) employee;

(iv) agent; or

(v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.



- 1 (7) A person having written permission from the railroad carrier
- 2 to go on specified railroad property.
- 3 (8) A representative of the Indiana department of transportation
- 4 while engaged in the performance of official duties.
- 5 (9) A representative of the federal Railroad Administration while
- 6 engaged in the performance of official duties.
- 7 (10) A representative of the National Transportation Safety Board
- 8 while engaged in the performance of official duties.

